

ASSEMBLY BILL

No. 308

Introduced by Assembly Member Jerome Horton

February 9, 2005

An act to amend Section 594 of the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 308, as introduced, Jerome Horton. Vandalism.

(1) Existing law relating to vandalism provides that if the amount of defacement, damage, or destruction is \$400 or more, the vandalism is punishable as either a misdemeanor or a felony. This provision was added by initiative and may be amended by the Legislature only upon a 2/3 vote of each house.

Under existing decisional law, separate misdemeanor offenses of vandalism causing damage to multiple victims may not be likewise aggregated to result in a felony charge.

This bill would provide that the defacement, damage, or destruction that is committed pursuant to a single scheme or a continuous course of conduct may be aggregated when determining the monetary value of the damage, whether the defacement, damage, or destruction affected the property of one or more persons; and that the commission of more than one act of vandalism in the same jurisdiction over a continuous 72-hour period shall constitute a single scheme or continuous course of conduct.

By changing the definition of a crime, this bill would impose a state-mandated local program upon local governments.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 594 of the Penal Code is amended to
2 read:

3 594. (a) Every person who maliciously commits any of the
4 following acts with respect to any real or personal property not
5 his or her own, in cases other than those specified by state law, is
6 guilty of vandalism:

7 (1) Defaces with graffiti or other inscribed material.

8 (2) Damages.

9 (3) Destroys.

10 Whenever a person violates this subdivision with respect to
11 real property, vehicles, signs, fixtures, furnishings, or property
12 belonging to any public entity, as defined by Section 811.2 of the
13 Government Code, or the federal government, it shall be a
14 permissive inference that the person neither owned the property
15 nor had the permission of the owner to deface, damage, or
16 destroy the property.

17 (b) (1) If the amount of defacement, damage, or destruction is
18 four hundred dollars (\$400) or more, vandalism is punishable by
19 imprisonment in the state prison or in a county jail not exceeding
20 one year, or by a fine of not more than ten thousand dollars
21 (\$10,000), or if the amount of defacement, damage, or
22 destruction is ten thousand dollars (\$10,000) or more, by a fine of
23 not more than fifty thousand dollars (\$50,000), or by both that
24 fine and imprisonment.

25 (2) (A) If the amount of defacement, damage, or destruction is
26 less than four hundred dollars (\$400), vandalism is punishable by
27 imprisonment in a county jail not exceeding one year, or by a
28 fine of not more than one thousand dollars (\$1,000), or by both
29 that fine and imprisonment.

30 (B) If the amount of defacement, damage, or destruction is less
31 than four hundred dollars (\$400), and the defendant has been
32 previously convicted of vandalism or affixing graffiti or other
33 inscribed material under Section 594, 594.3, 594.4, 640.5, 640.6,

1 or 640.7, vandalism is punishable by imprisonment in a county
2 jail for not more than one year, or by a fine of not more than five
3 thousand dollars (\$5,000), or by both that fine and imprisonment.

4 (3) (A) *The defacement, damage, or destruction resulting*
5 *from a violation of this subdivision that is committed pursuant to*
6 *a single scheme or a continuous course of conduct may be*
7 *aggregated when determining the monetary value of the damage,*
8 *whether the defacement, damage, or destruction affected the*
9 *property of one or more persons.*

10 (B) *For the limited purpose of aggregation in determining the*
11 *monetary value of damage caused under this subdivision, the*
12 *commission of more than one act of vandalism in the same*
13 *jurisdiction over a continuous 72-hour period shall constitute a*
14 *single scheme or continuous course of conduct.*

15 (C) *The addition of this paragraph to subdivision (b) of this*
16 *section is a statutory response by the Legislature to the judicial*
17 *holding in the case of In re David D. (1999) 52 Cal.App.4th 304,*
18 *the intent of which is to prospectively overturn that ruling.*

19 (c) Upon conviction of any person under this section for acts
20 of vandalism consisting of defacing property with graffiti or
21 other inscribed materials, the court may, in addition to any
22 punishment imposed under subdivision (b), order the defendant
23 to clean up, repair, or replace the damaged property himself or
24 herself, or order the defendant, and his or her parents or
25 guardians if the defendant is a minor, to keep the damaged
26 property or another specified property in the community free of
27 graffiti for up to one year. Participation of a parent or guardian is
28 not required under this subdivision if the court deems this
29 participation to be detrimental to the defendant, or if the parent or
30 guardian is a single parent who must care for young children.

31 (d) If a minor is personally unable to pay a fine levied for acts
32 prohibited by this section, the parent of that minor shall be liable
33 for payment of the fine. A court may waive payment of the fine,
34 or any part thereof, by the parent upon a finding of good cause.

35 (e) As used in this section, the term “graffiti or other inscribed
36 material” includes any unauthorized inscription, word, figure,
37 mark, or design, that is written, marked, etched, scratched,
38 drawn, or painted on real or personal property.

1 (f) The court may order any person ordered to perform
2 community service or graffiti removal pursuant to paragraph (1)
3 of subdivision (c) to undergo counseling.

4 (g) This section shall become operative on January 1, 2002.

5 SEC. 2. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the
10 penalty for a crime or infraction, within the meaning of Section
11 17556 of the Government Code, or changes the definition of a
12 crime within the meaning of Section 6 of Article XIII B of the
13 California Constitution.